

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARTY EUGENE MCDONALD,

Defendant.

CR 21-20-BU-DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto's Amended Findings & Recommendation Concerning Plea. (Doc. 117.)¹ Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Mr. McDonald is charged by Superseding Information with one count of

¹ Judge DeSoto's original findings and recommendation (Doc. 113) was amended to correctly state the charge Defendant Marty Eugene McDonald has pled guilty to. (Doc. 117 at 1.)

possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2. (Doc. 107.) Judge DeSoto recommends that this Court accept Mr. McDonald's guilty plea as to this charge after he appeared before her pursuant to Federal Rule of Criminal Procedure 11. The Court finds no clear error in Judge DeSoto's Findings and Recommendation and adopts them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report. The Court will adjudicate the issue of forfeiture upon motion of the United States.

Accordingly, IT IS ORDERED that Judge DeSoto's Findings and Recommendation (Doc. 117) is ADOPTED in full.

IT IS FURTHER ORDERED that Mr. McDonald's motion to change plea (Doc. 58) is GRANTED.

IT IS FURTHER ORDERED that Mr. McDonald is adjudged guilty as charged in the Superseding Information.

DATED this 2nd day of January, 2022.



Dana L. Christensen, District Judge
United States District Court